

Service Date: May 30, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Investigation)	UTILITY DIVISION
into U S WEST Communications, Inc.'s)	DOCKET NO. D97.5.87
Compliance with Section 271(c) of the)	
Telecommunications Act of 1996)	ORDER NO. 5982

**NOTICE OF COMMISSION ACTION, NOTICE
OF OPPORTUNITY TO INTERVENE, AND INITIAL ORDER**

PLEASE TAKE NOTICE that the Montana Public Service Commission (Commission), in a scheduled work session held on May 20, 1997, voted to initiate an investigation to determine the extent of U S WEST Communications, Inc.'s (U S WEST's) compliance with § 271 of the Telecommunications Act of 1996, 104 Publ. L. No. 104, 110 Stat. 56 (1996) (the Act). The Commission establishes this Docket for the purpose of receiving information from U S WEST and comments from interested persons regarding U S WEST's compliance with § 271 of the Act.

Section 271 includes a process whereby Regional Bell Operating Companies (RBOCs) may obtain authorization from the Federal Communications Commission (FCC) to provide in-region interLATA telecommunications services. U S WEST is the RBOC operating in Montana, and prior to being allowed to offer intrastate interLATA services in Montana and interstate interLATA services throughout its 14-state region, the FCC must determine that U S WEST is in compliance with a number of conditions, including the 14-point checklist set forth in 47 U.S.C. § 271(c).

Section 271(d)(3) of the Act states that U S WEST must apply to the FCC (a "271 Application") for authorization to provide these in-region interLATA telecommunications services. It also provides that the FCC must issue a written determination either approving or denying U S WEST's 271 Application. In that time, the FCC is directed to consult with both the United States Department of Justice (DOJ) and this Commission concerning U S WEST's

compliance with § 271 in Montana. The FCC must determine whether: (1) U S WEST has satisfied the "competitive checklist" set forth in § 271(c), either by agreement or by a statement of generally available terms; (2) the requested authorization will be carried out in accordance with the requirements of § 272; and (3) U S WEST's entry into the long distance market is in the public interest.

The FCC has issued a Public Notice establishing procedures for handling "271 Applications" expeditiously. *See* Procedures for BOC Applications Under New Section 271 of the Communications Act (Procedures), FCC 96-469 (Dec. 6 1996). According to these Procedures, the FCC's Common Carrier Bureau will issue a public notice, known as an Initial Public Notice or "IPN," that will establish the specific due dates for the various filings required in the Montana action. The Bureau will also notify this Commission of the FCC's receipt of the application.

Section 271(d)(2)(B) provides that the FCC must consult with the state which is the subject of a "271 Application" to verify the RBOC's compliance with subsection (c) before making its determination on the application. The FCC's Procedures allow state commissions only 20 days after the IPN is issued within which to file recommendations with the FCC. This Docket is established to gather the information needed to fulfill this consultative role with the FCC pursuant to § 271(d)(2)(B).

Given the short time allowed for this Commission to respond to the FCC once U S WEST submits its Montana application, it is necessary to initiate a proceeding now to develop a thorough record on all relevant issues. We believe that gathering such information in advance will better enable the Commission to carefully and completely evaluate U S WEST's compliance with § 271(c) of the Act and to make a useful and comprehensive recommendation to the FCC. We believe further that it is in the public interest as well as in the interest of U S WEST, that the purposes to be fulfilled by this investigation will not be served if U S WEST files its "271 Application" with the FCC before this Commission has had the opportunity to review the information relevant to § 271(c). Therefore, it is appropriate to require that U S WEST provide this Commission with 90 days notice prior to filing its "271 Application" with the FCC. The intent of this Docket, however, is not to adjudicate the rights of any party.

To expedite the receipt of information as much as possible and to complete this Commission's evaluation prior to U S WEST's filing of its "271 Application" with the FCC, the Commission will schedule a prehearing conference following the expiration of the time established herein to intervene in this Docket.

Intervention

Any interested person with proper standing may file a petition to intervene pursuant to the Commission's procedural rules, ARM 38.2.2401 - 38.2.2406. Any such petition must be addressed to Mr. Dennis Crawford, Montana PSC, 1701 Prospect Ave., PO Box 202601, Helena, MT 59620-2601, including an original and five copies, and filed no later than June 10, 1997.

Other Matters

All documents submitted to the Commission in this Docket must be served upon the Docket Service List, and must be filed with a certificate of service.

Any interested person directly affected by this matter may, without intervention, file comments with the Commission; however, without intervention no party status will exist.

The Montana Consumer Counsel, 34 West Sixth Ave., PO Box 201703, Helena, MT 59620-1703, telephone (406) 444-2771, is available to represent consumer interests in this matter.

Order

It is ORDERED that U S WEST shall notify this Commission 90 days prior to filing its Montana "271 Application" with the FCC.

DONE AND DATED this 28th day of May, 1997 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.